IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.271 OF 2007

The Commissioner of Income-tax
Aayakar Bhavan, Near Holi Cross
High School, Cantonment,Aurangabad. ..Appellant.

V/s.

Samarth Sahakari Sakhar Karkhana
Ltd. Tal. Ambad, Dist. Jalna ..Respondent.

Mr.B.M.Chatterjee with Mrs.P.P.Bhosale for appellant.

Mr.S.N.Inamdar with A.K.Jasani for respondent.

CORAM : F.I.REBELLO AND
J.P.DEVADHAR, JJ.

DATED : 17TH SEPTEMBER, 2007.

ORAL JUDGMENT (PER J.P.DEVADHAR, J.)

1. This appeal is filed by Commissioner of Income Tax under section 260 A of the Income Tax Act, 1961 against the order of the ITAT dated 13/1/2006 relating to the assessment year 1999-00.

2. The appeal is admitted on the following question of law:-

" Whether on the facts and in the circumstances of the case and in law, the Tribunal was justified in holding that Bakshish payment made by the assessee to harvesting and transport contractor’s labourers was out of commercial expediency, whereas such payments are purely voluntary, based on sweet will of assessee society and being over and above the agreed price of contracts, do not form the part of business

expenditure ? "

3. Counsel on both the sides agree that the aforesaid question of law is answered against the revenue and in favour of the assessee by the decision of this Court in the case of Commissioner of Income Tax V/s. Samarth Sahakari Sakhar Karkhana Ltd. in Income Tax Appeal No. 273 of 2007 decided on 17th September, 2007. Accordingly, the question is answered in favour of the assessee and against the revenue.

4. Appeal disposed of accordingly with no order as to costs.

(F.I.REBELLO, J.)

(J.P.DEVADHAR, J.)